

## AFFIDAVIT

1. **Affiant/Agent.** I, Kirby Fleck, am a Deportation Officer with Immigration and Customs Enforcement (ICE), assigned to the Grand Forks, North Dakota Enforcement and Removal Operations (ERO) Office. I have been employed as a Deportation Officer since November 9, 2008.
2. **Arrest and Investigation of Guadalupe Eliazar ELIZONDO-Gonzalez.** On January 25, 2025, ELIZONDO was arrested in West Fargo, North Dakota for domestic violence by the West Fargo Police Department. On January 25, 2025, ELIZONDO was booked into the Cass County Jail in Fargo, North Dakota for the pending domestic violence charge.

While performing Criminal Apprehension Program duties on January 27, 2025, ERO Officer Fleck observed ELIZONDO was on the Cass County new booking log. The Cass County Jail advised Officer Fleck ELIZONDO's place of birth and citizenship was unknown. Officer Fleck requested a copy of ELIZONDO'S Cass County booking card, which contained a photograph and various biographical information.

On January 27, 2025, Officer Fleck conducted records checks by searching ELIZONDO's name and date of birth in service (ICE ERO/USCIS) record systems. Service records for ELIZONDO reveal ELIZONDO is a citizen of Mexico and was previously removed to Mexico on April 8, 2014. It should be noted that the last known legal entry into the United States by ELIZONDO was May 2, 2008, as a B2 Temporary Visitor. A B2 Temporary Visitor Visa allows for short entry visits into the United States typically only admitting people into the United States not longer than six months. Service records did not reveal any legal entries into the United States for ELIZONDO since May 2, 2008. The service systems photograph for ELIZONDO appeared to have a likeness to the photograph on the Cass County booking card from ELIZONDO's domestic violence jail booking.

On January 27, 2025, Officer Fleck conducted a telephonic immigration inspection in the English Language, while ELIZONDO was at the Cass County Jail. ELIZONDO stated he was born in Mexico and is a citizen of Mexico. ELIZONDO stated he is not a United States citizen. ELIZONDO stated he could not recall the last time he entered the United States but stated it was at Hidalgo, Texas. ELIZONDO thought he used an unknown/unspecified visa to enter the United States. ELIZONDO claimed he was currently legal in the United States because he thought he had some type of visa.

On January 27, 2025, Officer Fleck obtained a copy of ELIZONDO's Cass County fingerprints. Officer Fleck submitted a copy of ELIZONDO's fingerprints through IDENT/NGI, a computerized fingerprint identification system. The IDENT records revealed a match to Alien Registration Number AXXX XXX 350 and the Alien Registration Number is assigned to ELIZONDO. The IDENT and EARM (Enforce Alien Removal Module), one of the service immigration systems, further confirmed

ELIZONDO is a citizen of Mexico and was last removed to Mexico on April 8, 2014, due to an Expedited Removal Order issued by the United States Border Patrol on April 3, 2014, at McAllen, Texas.

On January 27, 2025, an ACRIME (Alien Criminal Response Information Management System) record was observed revealing ELIZONDO is a citizen of Mexico who was previously removed from the United States. ACRIME is a computerized identification system linking criminal and immigration encounters, which is normally initiated by a law enforcement entity submitting fingerprints to the federal databases during a jail booking process.

On January 27, 2025, ERO Officer Fleck placed a DHS I-247 detainer and a DHS I-200 Warrant for Arrest of Alien with the Cass County Jail. On January 30, 2025, ELIZONDO was released from the Cass County Jail to the custody of ICE ERO.

3. **Administrative Processing/ Miranda Warning / Consular Notification.** On January 30, 2025, while at the ICE ERO Grand Forks, North Dakota Office, ERO Officer Fleck notified ELIZONDO of his Miranda Rights in the English language. It should be noted that on January 30, 2025, ELIZONDO stated he can speak and understand English. While beginning the administrative processing and prior to serving any documents, ELIZONDO stated he would be fine speaking English and declined the use of a Spanish interpreter. On January 30, 2025, ELIZONDO declined to contact the Consulate of Mexico

On January 30, 2025, after providing notice of the Miranda Rights, Officer Fleck attempted to conduct a sworn statement with ELIZONDO at the Grand Forks, North Dakota ICE ERO Office. ELIZONDO declined to answer questions without an attorney. During administrative processing at the ICE ERO Office, Officer Fleck served a Notice of Intent/Decision to Reinstate Prior Order (form I-871).

Once again on January 30, 2025, ELIZONDO's fingerprints were submitted through IDENT/NGI. The IDENT results, Enforcement and Removal Module databases, and the Alien Registration File confirmed the previously mentioned removal to Mexico on April 8, 2014.

After ELIZONDO was removed to Mexico, no records could be found that indicate ELIZONDO has ever applied for or been granted permission to re-enter the United States by the Attorney General, or his successor, the Secretary of the Department of Homeland Security.


4. **Criminal History.** A review of the NCIC (National Crime Information Center) records revealed the following criminal convictions:
  - a.) On March 8, 2022, ELIZONDO was convicted in Seventh Judicial District Court at Moorhead, Minnesota for operating motor vehicle under the Influence. ELIZONDO




was sentenced to 90 days with 90 days stayed.

In my experience, the above facts constitute a violation of 8 U.S.C. § 1326(a).

The foregoing is true and correct to the best of my knowledge and belief.

  
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Kirby Fleck  
Deportation Officer

Sworn before me this 3rd day of February 2025, in Grand Forks and Fargo, North Dakota, by reliable electronic means.

  
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Alice R. Senechal  
United States Magistrate Judge